

**BEFORE THE
GOVERNING BOARD OF THE
BAKERSFIELD CITY SCHOOL DISTRICT**

In the Matter of the Non-Reemployment of
9.0 Full Time Equivalent Certificated
Employees

OAH No. 2011030413

Respondents.

PROPOSED DECISION

Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on April 12, 2011, in Bakersfield, California.

Candace M. Bandoian, Attorney at Law, represented the Bakersfield City School District. Phil Brown, CTA Representative, represented the Respondents. Evidence was received and the matter was submitted for decision.

SUMMARY

The Governing Board (Board) of the Bakersfield City School District (District) decided to reduce or discontinue particular kinds of services provided by certificated personnel for the 2010-2011 school year for budgetary reasons. District staff carried out the Board's decision by using a selection process involving review of seniority, credentials, and criteria for breaking ties between employees with the same first dates of paid service. The selection process complied with Education Code requirements.

FACTUAL FINDINGS

1. Linda Goodspeed, Director of Certificated Personnel of the District, filed the Accusations in her official capacity.

2. Respondents Debra Anderson, Carrie Azimian, Bertha Barrera, Robin Bishop, and Lisa Gonzales are certificated employees of the District.

FACTS PURSUANT TO WRITTEN STIPULATION (EHIBIT 10)

3. On February 22, 2011, the Board of the District adopted a resolution for determining the order of seniority for those employees with the same date of first paid service in a probationary position. This resolution sets forth the criteria to be used to determine the order of termination among certificated employees who first rendered paid service in a probationary position to the District on the same date.

4. The District properly applied the criteria set forth in the Resolution for Determining the Order of Seniority for those employees with the same date of first paid service.

5. On February 22, 2011, the Board adopted a Resolution to decrease the number of certificated employees due to a reduction or elimination of particular kinds of services, which sets forth the Board's determination that it will be necessary for the District to reduce or discontinue particular kinds of services for the 2011/2012 school year totaling 9.0 FTE certificated positions.

6. The services listed in the Resolution to decrease the number of certificated employees due to a reduction or elimination of particular kinds of services are particular kinds of services within the meaning of Education Code section 44955.

7. All notices and jurisdictional documents were timely and properly served on all affected certificated employees. All notices and other requirements of Education Code section 44949 and 44955, and applicable Government Code provisions have been provided or satisfied.

8. No permanent or probationary employee with less seniority is being retained to render a service which any senior Respondent is certificated and competent to render.

9. Cause exists pursuant to Education Code section 44955 to lay off the 9.0 FTE certificated individuals due to the reduction and discontinuation of particular kinds of services.

10. The reductions or discontinuation of the particular kinds of services are related to the welfare of the District and its pupils.

FACTS PURSUANT TO ORAL STIPULATION

11. Respondent Carrie Azimian's employment status has been changed from categorical to probationary 0.

LEGAL CONCLUSIONS

1. All notices and other requirements of Education Code sections 44949 and 44955 were met. Therefore, jurisdiction was established for this proceeding as to all Respondents.

2. Cause was established as required by Education Code section 44955 to reduce the number of certificated employees due to the reduction or discontinuation of particular kinds of services. The Board's decisions to reduce or eliminate the identified services were neither arbitrary nor capricious. The decisions relate solely to the welfare of the District's schools and the pupils within the meaning of Education Code sections 44949 and 44955.

3. No junior certificated employee is being retained to perform services which a more senior employee subject to layoff is certificated and competent to render.

ORDER

Notice may be given to Respondents Debra Anderson, Carrie Azimian, Bertha Barrera, Robin Bishop, and Lisa Gonzales, that their services will not be required for the 2010-2011 school year.

Dated: April 14, 2010

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings